

EMIGRANT AGENT LAW IS BEFORE SUPREME COURT

Habeas Corpus Writ Brings Laws To Test

FULL DETAIL OF DOCUMENT IS GIVEN

Will Be Followed By Briefs of Attorneys Presented In This Most Important Case.

No public question that has come before the Supreme Court of the Territory in years has been of more vital importance to the Territory than the habeas corpus cases resulting from the emigration law recently passed by the Legislature to protect Hawaii from labor raiders from the Alaska canneries or any other interest of the Pacific Coast.

For this reason the Bulletin publishes in this issue the petition in the case and the return. It will later publish the brief of both sides. It is to be hoped that the subject matter will be read carefully by the people who really want to understand the situation and later have an intelligent opinion on the final conclusion of the court.

In the Supreme Court of the Territory of Hawaii.

In the Matter of the Application of Frank B. Craig, for a Writ of Habeas Corpus. Stamps \$2.00

Petition for a Writ of Habeas Corpus.

To the Honorable A. Perry, one of the Justices of the Supreme Court of the Territory of Hawaii:

The petition of Frank B. Craig respectfully shows:

That he, the said Frank B. Craig, is unlawfully imprisoned and restrained of his liberty by William P. Jarrett, sheriff of the City and County of Honolulu, Territory of Hawaii, at the police station in said Honolulu, City and County aforesaid.

That according to the best of your petitioner's knowledge and belief, the cause or pretense of his aforesaid confinement and restraint is a certain purported or alleged warrant of arrest issued by William B. Lymer, District Magistrate of Honolulu, City and County of Honolulu, dated April 7, 1911, which said purported or alleged warrant is based upon a purported and alleged written complaint sworn to before the said District Magistrate of Honolulu by John W. Cathcart, City and County Attorney of the City and County of Honolulu, copies of which said purported complaint and the warrant or arrest issued thereon by the said William B. Lymer, District Magistrate as aforesaid, are hereto annexed, marked Exhibit "A", and made a part hereof.

That the said imprisonment and restraint of petitioner is illegal, and that said illegality consists in this:

1. That Act 48 of the Laws of the Territory of Hawaii, session of 1911, under the authority of which Act said warrant of arrest is purportedly and allegedly issued, is contrary to the spirit, intent, and provisions of Sec. 10 of the "Organic Act" of Hawaii (31 Stat. at L. 141, c. 339), relating to contract labor.

2. That said Act 48 is in contravention of Sec. 45 of said "Organic Act," which provides: "That each law shall embrace but one subject, which shall be expressed in its title."

3. That said Act 48 of the Session Laws of 1911 is wholly unconstitutional and void.

4. That said Act constitutes an unreasonable restriction and regulation of intercourse among the citizens of this Territory and those of other states and territories of the United States, and is in contravention of Act 1, Sec. 8, Par. 3, and Act 1, Sec. 9, Par. 5, of the Constitution of the United States.

5. That said Act is violative of the First Amendment to the Constitution of the United States, in that it abridges the freedom of speech and of the press.

6. That said Act tends to create, and creates, a condition of involuntary servitude among persons of the laboring class in the Territory of Hawaii, contrary to the provisions of Sec. 1 of the Thirteenth Amendment to the Constitution of the United States.

7. That said Act is violative of the Fourteenth Amendment to the Constitution of the United States, in that it denies to persons within the Territorial jurisdiction the equal protection of the laws.

8. That it is an interference with and restricts the right of the citizen to move from the Territory of Hawaii to another state or territory of the United States, and therefore abridges his privileges and immunities, in contravention of the provisions of Sec. 1 of said Fourteenth Amendment.

9. That said Act is violative of the Fifth Amendment to the Constitution of the United States, for the reason stated in sub-section (c) hereinafter.

Therefore, your petitioner prays that a Writ of Habeas Corpus may be granted, directed to the said William P. Jarrett, Sheriff of the City and County of Honolulu, as aforesaid, commanding him to have the body of Frank B. Craig, your petitioner, before the Supreme Court of the Territory of Hawaii, at a time and place therein to be specified, to do and receive what shall then and there be considered by such Honorable Court concerning said Frank B. Craig, to

gether with the time and cause of his detention, and said Writ; and that Frank B. Craig, your petitioner, may be restored to his liberty.

Dated, Honolulu, April 11, 1911.

(Sgd.) FRANK B. CRAIG.
(Sgd.) CHICKERING & GREGORY, E. M. WATSON,
R. W. BRECKONS,
Attorneys for Petitioner.

In the Supreme Court of the Territory of Hawaii.

In the Matter of the Application of Frank B. Craig for a Writ of Habeas Corpus.

Return of William P. Jarrett.

Now comes William P. Jarrett and in obedience to the writ of habeas corpus issued herein produces herewith before this Honorable Court the body of Frank B. Craig, the person named in said writ, and for return to said writ says:

First: That he is the duly elected, qualified and acting Sheriff of the City and County of Honolulu, Territory of Hawaii.

Second: That he holds the said Frank B. Craig, the person named in said writ of habeas corpus, under and by virtue of a warrant of arrest issued by William B. Lymer, District Magistrate of Honolulu, City and County of Honolulu, dated April 7, 1911, based upon a written complaint sworn to before the said District Magistrate of Honolulu by John W. Cathcart, City and County Attorney of the City and County of Honolulu, copies of which warrant and complaint are attached to the petition for a writ of habeas corpus hereto.

Third: That this respondent denies that the said imprisonment and restraint of petitioner is illegal in any manner but alleges that the same is in obedience to and in accordance with the laws of the Territory of Hawaii, and specifically answering the alleged grounds of illegality set forth in said petition this respondent says:

1. (a) That Act 48 of the Session Laws of 1911, Territory of Hawaii, is not contrary to the spirit, intent, and/or provisions of Section 10 of the Organic Act of Hawaii relating to contract labor.

(b) That said Frank B. Craig is not a contract laborer; nor has he entered into any contract for personal labor or service in any way involved in these proceedings, nor is he otherwise entitled to complain of the alleged invalidity of said Act 48 in this respect, but that said Frank B. Craig is a resident of the State of California who came temporarily to this Territory on March 3, 1911, to secure laborers to work in Alaska for the Alaska Canners Company, a corporation having large capital and property, and operating a number of salmon canneries in Alaska and elsewhere, and has since that date been continuously engaged in the City and County of Honolulu and elsewhere in this Territory in recruiting laborers and in conducting the business of an emigrant agent, as defined in said Act 48, as Session Laws of 1911.

(c) That no person who has entered into a contract for personal labor or service has complained in court of the alleged invalidity of said Act 48 for the reasons alleged, nor is there any remedy sought to be enforced for breach of any such contract in connection with these proceedings.

2. That said Act 48 is not in contravention of Section 45 of said Organic Act, which provides that each law shall embrace but one subject, but on the contrary that said Act 48 is entitled "An Act to Define, Regulate and License Emigrant Agents," and that said Act is wholly concerned with the subject expressed in its title.

3. That said Act 48 is constitutional and valid.

4. That said Act 48 does not constitute an unreasonable nor any restriction or regulation of intercourse among the citizens of this Territory and those of other states and territories of the United States, and that said Act is not in contravention of Article 1, Section 8, Paragraph 3, and/or Article 1, Section 9, Paragraph 5 of the Constitution of the United States. That said Act does not interfere with the freedom of said Frank B. Craig in these particulars or any of them, nor is he otherwise entitled to complain of the alleged invalidity of said Act in these respects.

5. That said Act is not ex post facto in its operation and is not in contravention of Article 1, Section 9, Paragraph 3 of the Constitution of the United States, but that said Act is wholly prospective in its operation. That said Act is not ex post facto as

regards the offense of Frank B. Craig, specified in the complaint of John W. Cathcart, City and County Attorney aforesaid, upon which the warrant was issued for the arrest of said Frank B. Craig as aforesaid, nor is said Frank B. Craig otherwise entitled to complain of the alleged invalidity of said Act in this respect.

6. That said Act does not violate the first amendment to the Constitution of the United States in that it does not abridge nor purport to abridge the freedom of speech and/or the press.

7. That said Act does not create nor does it tend to create a condition of involuntary servitude among persons of the laboring class in the Territory of Hawaii, contrary to the provisions of Section 1 of the Thirteenth Amendment to the Constitution of the United States. That no person of the laboring class in the Territory of Hawaii is before this court complaining of the alleged invalidity of said Act 48 in this respect. That said Frank B. Craig is not a person of the laboring class in the Territory of Hawaii, nor is he otherwise entitled to complain of the alleged invalidity of said Act 48 in this respect.

8. That said Act 48 is not in violation of the Fourteenth Amendment of the Constitution of the United States, and specifically:

(a) That it does not deny to persons within the Territorial jurisdiction the equal protection of the laws.

(b) That it is not an interference with nor a restriction on the right of the citizens to move from the Territory of Hawaii to another state or territory of the United States, nor does it abridge his privileges and immunities in contravention of the provisions of Section 1 of said Fourteenth Amendment.

That said Act does not interfere with nor restrict, nor tend to interfere with nor restrict the right of Frank B. Craig to move from the Territory of Hawaii to another state or territory of the United States, nor does it therefore abridge his privileges and immunities nor is he otherwise entitled to complain of the alleged invalidity of said Act in this respect.

(c) That said Act does not unduly nor in any manner restrict the right of the citizen to contract nor does it deprive him of his property without due process of law, nor does it amount to a prohibition of the right to carry on a lawful calling and occupation.

(d) That said Act is not class legislation and does not discriminate arbitrarily and without reasonable basis, but on the contrary this petitioner alleges that the facts hereinafter set forth, in addition to others of which the court may take judicial knowledge or which may hereafter be brought to the attention of the court at the hearing hereof or otherwise, furnish a reasonable basis for the enactment of said Act 48, this respondent alleges, however, that said Frank B. Craig being held on a charge of acting as an emigrant agent without a license is entitled to complain, if at all, only of the conditions upon which said license may be obtained, under said Act, and is not entitled in this proceeding to complain of any restrictions or condition which may be imposed upon the doing of business by emigrant agents who have licenses. The facts alleged by this respondent as aforesaid as forming reasonable basis for the enactment of said Act 48 are as follows:

(1) That the Territory of Hawaii has agricultural resources in excess of its available supply of labor. That there is already invested in agricultural pursuits within said Territory upwards of Seventy-five Million Dollars worth of capital devoted to the raising of sugar cane and manufacture of raw sugar, together with a large amount of capital devoted to the raising of pineapples, and other nine applies, to the raising of sisal, coffee, cotton, tobacco, and like industries. That the available supply of labor is insufficient to meet the requirements of these various agricultural industries, together with the requirements of the incidental and other legitimate occupations of the citizens of this Territory. That the securing of such labor in particular requires continuous work of agricultural laborers throughout the year, and that any considerable diminution of the number of laborers engaged would result in irreparable injury in a very short time not only to said sugar industry but to all industrial enterprises and all other business and financial interests of the Territory. That the security of the capital already invested, as well as the future development of this Territory, requires the securing from places outside of this Territory of a large number of laborers.

(2) That the Territory of Hawaii is geographically situated over two thousand miles from the nearest land, to-wit, the Pacific Coast of the United States. That said Pacific Coast is not available as a source of labor for this Territory, and that the nearest available sources of labor supply for this Territory are the Philippine Islands, the Island of Porto Rico and Continent of Europe, together with the islands adjacent to said continent. That owing to the distances involved and other conditions the cost of getting laborers to come to the Territory of Hawaii averages over One Hundred Dollars per man. That the average annual value to the industries of this Territory of Hawaii of the services of One Hundred laborers is upwards of One Hundred Dollars.

(3) That the Territory of Hawaii through its duly organized Board of Immigration and Land Survey has been continuously endeavoring to bring immigrants of the laboring class to the Territory of Hawaii, that it raises funds by taxation expressly for said purpose under Act 33 of the Session Laws of 1909 as amended by Act 66 of the Session Laws of 1909, and that large amounts of money are annually raised and expended for said purpose.

That the Hawaiian Sugar Planters' Association, a voluntary association of corporations engaged in raising sugar, also expends large sums of money annually in getting laborers and elsewhere in the Territory consisting of such agents generally do of unknown and obscure people coming and going secretly and operating largely at night, and through gamblers and other criminal classes living secretly off of such laborers and their earnings, and the provisions of said Act 48 requiring an emigrant agent to furnish certain statements of the work such agent is doing or has done constitutes a necessary and proper police regulation in connection with the laws both civil and criminal, and both statutory and existing at the common law prohibiting inducing and enticing laborers to leave their employers by promise of employment outside the Territory of Hawaii, and protecting laborers from being misled and deceived in leaving the Territory of Hawaii for employment abroad.

(11) That in case of laborers brought by the Hawaiian Sugar Planters' Association from the Philippine Islands, the Government of the Philippine Islands exacts as a condition to allowing such recruiting that the Hawaiian Sugar Planters' Association shall enter into a three years' contract with each laborer so recruited, and that while many Filipino laborers so recruited desert such contracts of employment, there has been no instance since the organization of the Territory of Hawaii of the Hawaiian Sugar Planters' Association, or any other employer, seeking to enforce any remedy, civil or otherwise, against such laborer for such breach of contract, yet such contracts so exacted by the Philippine Government and the fact that large numbers of the laborers now in this Territory have been induced to come here through the representations of its only accredited agents, made both to the laborers and to the governmental authorities in the countries from which they were brought constitute a moral obligation on the part of the authorities of the Territory of Hawaii to protect said laborers from leaving the Territory of Hawaii at the solicitation of irresponsible persons, and for unknown employment at unknown places, except under regulations which shall adequately safeguard the interests of said laborer.

That said Act is not in violation of the Fifth Amendment to the Constitution of the United States, and that said Act does not unduly or in any manner restrict the right of the citizen to contract nor does it deprive him of his property without due process of law, nor does it amount to a prohibition of the right to carry on a lawful calling and occupation.

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